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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
NEURAUTER, GEORGE C	
ART UNIT	**PAPER NUMBER**
2143	

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/519,221	KANOJIA ET AL.	
	Examiner	Art Unit	
	George C. Neurauter, Jr.	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-7 and 9-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-7 and 9-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *10112005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claims 2-7 and 9-16 are currently presented and have been examined.

Response to Arguments

Applicant's arguments filed 11 October 2005 have been fully considered but they are not persuasive.

The Applicant argues that "NewNet" does not teach queuing messages from one or more server processes that are destined for a plurality of embedded devices. The Applicant admits that NewNet discloses the well known wireless simple messaging service ("SMS"). As is well known in the art and taught by "NewNet" (see section 3.2 of "NewNet"), SMS is a "store and forward" messaging system which means that messages destined for a destination device are temporarily stored based on the device's status on the network. The router or "SMSC" as disclosed in "NewNet" stores these messages from a plurality of server processes or "SMS-IWMSC" or "MSC" that receives "a short message from the mobile network" and submits "it to the appropriate SMSC" (section 3.2 of "NewNet"). Since the claims' broadest reasonable interpretation does not require a specific implementation of queuing messages, the teaching within "NewNet" of the temporary storage of messages at the router in the order of reception of messages anticipates this limitation.

The Applicant also argues that "NewNet" does not teach wherein for each message, transmitting the message directly to the destination address of the embedded device over the data network regardless of whether the embedded device is active on the data network. Since the claims' broadest reasonable interpretation only requires that the message be sent directly to the destination address of the embedded device, not directly to the embedded device, "NewNet", as shown by the Examiner previously, discloses wherein the router or "SMSC" as disclosed in "NewNet" attempts to send the message to the embedded device at its destination address wherein the attempt to deliver the message either succeeds or fails. Therefore, "NewNet" does teach that the message is transmitted regardless of whether the embedded device is active.

Therefore, the claims are not in condition for allowance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-6, 9-13, and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by "NewNet SMserver: Wireless Short Message Service Tutorial". ("NewNet")

Regarding claim 2, NewNet discloses a message router system as recited in Claim 3, further comprising a system manager that tracks activity states of embedded devices on the data network and to determine whether the embedded devices are able to receive messages.

Regarding claim 3, NewNet discloses a message router system for a server system that communicates with embedded devices over a data network, the router system comprising:

a router (referred to within the reference as "Short Message Service Center" or "SMSC") coupled to a message store ("Home Location Register" or "HLR"); (page 3, Figure 1)

a queue manager queuing messages from one or more server processes that are destined for a plurality of embedded devices (page 3, section 3.2 "Short Message Service Center", specifically "...capable of receiving a short message from the mobile network and submitting it to the appropriate SMSC"), each of the messages being addressed to one of the embedded devices in the plurality of embedded devices with a unique identifier, the unique identifier being independent of any communication protocol; (page 1, "Introduction", specifically "The point-to-

point SMS provides a mechanism for transmitting "short" messages to and from wireless handsets...The service makes use of a short message service center (SMSC) which acts as a store and forward system for short messages..."; page 5, section 5 "Signaling Elements", specifically "The mechanism provides a means for the SMSC to transfer a short message to the MSC which is serving the addressed mobile station..."; page 6, section 4.2 "Subscriber Services", specifically "Mobile-oriented short messages are transported from the handset to the SMSC and can be destined to other mobile subscribers or for subscribers on fixed networks such as paging networks or electronic mail networks. Mobile-terminated short messages are transported from the SMSC to the handset and can be submitted to the SMSC by other mobile subscribers...or by other sources such as voice mail systems, paging networks, or operators.")

the queue manager establishing a connection with the router and transferring the queued messages to the router; for each message, the router determining a destination address according to a communication protocol that corresponds to the unique identifier of the embedded device; (column 5, section 4 "Signaling Elements", specifically "Before attempting short message delivery, the SMSC needs to retrieve routing information

in order to determine the serving MSC for the mobile station at the time of the delivery attempt.")

for each message, the router transmitting the message directly to the destination address of the embedded device over the data network regardless of whether the embedded device is active on the data network; the router waiting for acknowledgements of the messages from the plurality of embedded devices; and the router storing unacknowledged messages in the message store corresponding ones of the plurality of embedded devices can accept the unacknowledged messages. (page 1, "Introduction", specifically "The service makes use of a short message service center (SMSC) which acts as a store and forward system for short messages... the service elements are designed to provide guaranteed delivery of text messages to the destination"; page 5, section 4 "Signaling Elements", specifically "The mechanism provides a means for the SMSC to transfer a short message to the MSC which is serving the addressed mobile station and attempts to deliver a message to an MS whenever the MS is registered...The operation works in tandem with the base station subsystem while the message is being forwarded...Therefore, the outcome of the [delivery] comprises either success...or failure..."; page 6, section 4.2 "Subscriber Services", specifically "For messages not requiring immediate

delivery, one or more delivery attempts are made until an acknowledgement is received")

Regarding claim 4, NewNet discloses a message router system as recited in Claim 3, wherein the router retrieves one or more of the unacknowledged messages from the message store when the system manager indicates that an embedded device to which the one or more unacknowledged messages are addressed is able to accept the one or more unacknowledged messages. (page 4, section 3.3 "Home Location register", specifically "The HLR also informs the SMSC, which has previously initiated unsuccessful short message delivery attempts to a specific mobile station, that the mobile station is now recognized by the mobile network to be accessible")

Regarding claim 5, NewNet discloses a message router system as recited in Claim 3, further comprising a bulk data transfer manager for transferring bulk data between the server system and the embedded devices (page 8, section 4.4 "Customer Care and Management", specifically "The SMSC can also be used to transfer binary data...")

Regarding claim 6, NewNet discloses a message router system as recited in Claim 5, wherein the bulk data are transferred to the embedded devices by the router sending the embedded devices a message to download a file and a location of the file, the

embedded devices contacting the bulk data transfer manager to obtain the file. (page 8, section 4.4 "Customer Care and Management", specifically "The SMSC can also be used to transfer binary data...Examples of such services include mobile station programming, which allows customer profiles and subscription characteristics to be downloaded to the mobile station...")

Regarding claim 9, NewNet discloses a method as recited in Claim 10, further comprising tracking activity states of embedded devices on the data network and to determine whether the embedded devices are able to receive messages. (page 4, section 3.3 "Home Location register", specifically "The HLR also informs the SMSC, which has previously initiated unsuccessful short message delivery attempts to a specific mobile station, that the mobile station is now recognized by the mobile network to be accessible")

Regarding claim 15, NewNet discloses the message router system as recited in Claim 3, wherein the messages are control messages directing the embedded devices to download, install, or activate content. (page 8, section 4.4 "Customer Care and Management", specifically "The SMSC can also be used to transfer binary data...Examples of such services include mobile station programming, which allows customer profiles and subscription characteristics to be downloaded to the mobile station...")

Claims 10-13 and 16 are also rejected since claims 10-14 recite a method that contains substantially the same limitations as recited in claims 3, 2, 4-6, and 15 respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered

therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over NewNet.

Regarding claim 7, NewNet discloses a message router system as recited in Claim 6.

NewNet does not expressly disclose wherein the embedded devices directly contact the bulk data transfer manager to obtain the file without sending a message via the router, however, NewNet does disclose wherein the embedded devices directly contact the bulk data transfer manager to obtain the file (page 8, section 4.4 "Customer Care and Management", specifically "The SMSC can also be used to transfer binary data...Examples of such services include mobile station programming, which allows customer profiles and subscription characteristics to be downloaded to the mobile station...")

It would have been obvious to one skilled in the art at the time the invention was made to use a message router system that

transfers bulk data without involving the use of the router because the Applicant has not disclosed that using the limitation undisclosed in NewNet provides any sort of an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the system described in NewNet as recited in the claim because the bulk data would be transferred in the same way since the bulk data would be transferred the same regardless of the involvement of the router. See MPEP 2183.

Claim 14 is also rejected since claim 14 recites a method that contains substantially the same limitations as recited in claim 7.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is (571) 272-3918. The examiner can normally be reached on Monday through Friday from 9AM to 5:30PM Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER